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COMMISSION ON HUMAN RIGHTS

Forty-seventh session

SUMMARY RECORD OF THE 13TH MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 6 February 1991, at 10 a.m.

Chairman: Mr. BERNALES BALLESTEROS (Peru)

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The meeting was called to order at 10.30 a.m.

VIOLATIONS OF HUMAN RIGHTS IN SOUTHERN AFRICA: REPORT OF THE AD HOC WORKING GROUP OF EXPERTS (agenda item 5) (continued) (E/CN.4/1991/9 and 10, A/45/615).

THE ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE COLONIAL AND RACIST REGIME IN SOUTHERN AFRICA (agenda item 6) (continued) (E/CN.4/Sub.2/1990/13 and Add.1)

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IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE SECOND DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 16) (continued) (E/CN.4/1991/45)

1. Mr. HELLER (Mexico) said that his country had always condemned the apartheid policy of the Pretoria régime in no uncertain terms and had fully supported the efforts of the international community to help to eliminate that unjust system which institutionalized racist practices. Mexico had therefore supported the struggle of the South African people to defend their legitimate aspirations. Mexico was a party to the international conventions that sought to eliminate apartheid and all forms of racial discrimination and it participated in the activities of the United Nations in the context of the Second Decade to Combat Racism and Racial Discrimination. Abiding by the relevant General Assembly resolutions, Mexico maintained no economic, financial, commercial or other form of relations with South Africa and had supported the application of extensive and mandatory sanctions against the Pretoria régime as a means by which the international community could apply pressure against apartheid.

2. One year earlier, the Commission had welcomed the release of Nelson Mandela, the lifting of the ban on the African National Congress (ANC) as well as on other political organizations and the start of a dialogue with the organizations representing the majority of the population. Still, serious violations of the human rights of the black population were continuing under the apartheid régime, as stated in paragraph 40 of the report of the Ad Hoc Working Group of Experts on southern Africa (E/CN.4/1991/10): the persistence of abuses of authority by the security forces and the appearance of "death squads", repression against students and trade-union members, forced population removals, the restrictions imposed on freedom of expression, the denial of trade-union rights of the black workers, the detention and torture of adolescents.

3. However, one encouraging sign had been the recent announcement by President De Klerk of measures to repeal various laws which were the main pillars of apartheid, namely, the Population Registration Act, the Group Areas Act and the Land Act. It was imperative to put an end to the legal structure on which the system of racial segregation was based and Mexico assumed that President De Klerk's determination would lead to specific measures that would dismantle apartheid in South Africa once and for all.

4. Since the international community was determined to contribute to eradicating that extreme form of racial discrimination, it should follow very

closely the reform process announced by the Pretoria régime. It was obvious that the question of human rights was far from being settled and that, in the present circumstances, the mandate of the Ad Hoc Working Group of Experts should be renewed.

5. The delegation of Mexico also paid tribute to Mr. Khalifa, the Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities for his report on the adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist régime of South Africa (E/CN.4/Sub.2/1990/13 and Add.1). Mexico was concerned at the increase in exports from the richest countries to South Africa. Those transactions could not have been funded without the export credits supplied and guaranteed by South Africa's main trading partners and they diluted the effectiveness of the sanctions which had been adopted. The fact that while some countries were cutting back on their trade with South Africa, others in the Far East and Europe were increasing theirs, had further reduced the impact of the sanctions.

6. In those circumstances, it should be emphasized that the Group of Three, set up under the International Convention on the Suppression and Punishment of the Crime of Apartheid, had pointed out that all the States parties had recognized the need to impose sanctions on the apartheid régime and had once again asserted that by pursuing activities in South Africa the transnational corporations were helping to perpetuate the oppression of the African majority while denying it the opportunity to have access to the country's economic development. Mexico therefore felt that the sanctions should be maintained until the system of apartheid had been dismantled.

7. Factors which could hasten the abandonment of the segregationist policy apparently existed today, but the anti-apartheid struggle did not allow of half-measures and the process of dismantling apartheid required the political will not only to repeal the laws which supported it but also to set up a legal system based on respect for human rights. In order to do so, the resistance of the privileged minorities would have to be overcome and the ideas based on so-called racial superiority would have to be jettisoned. Only after apartheid had been finally eradicated should South Africa be allowed to rejoin the community of nations.

8. Mr. ENDREFFY (Hungary) said that the cluster of four items on the agenda of the current meeting dealt with various aspects of the same ugly phenomenon, apartheid in South Africa, that form of institutionalized State racism which Hungary firmly and consistently opposed. The period covered in the documents submitted to the Commission, had been a tumultuous one for the world and for South Africa itself. One year had passed since the South African Government had embarked on a new course, freed Nelson Mandela as well as 11 political prisoners, lifted the ban on 30 political parties and organizations, thus paving the way for it and the African National Congress (ANC) to enter into a dialogue which had already produced important agreements and commitments.

9. Against that generally positive background there had been outbreaks of violence, the partial extension of the state of emergency, abuses of authority and, regrettably, continuing human rights violations. The police had fired on demonstrators, killing and injuring many of them, detention without trial was still used as a repressive measure and many reports indicated that several

people had died while in police custody. Freedom of expression, of association and the right to education had been severely curtailed. Hungary concluded from those violations that the full enjoyment of human rights by the people of South Africa without discrimination would only be possible when apartheid was dismantled.

10. In that regard, President De Klerk's announcement on 1 February that the Government intended to propose legislation to repeal laws such as the Land Act, the Group Areas Act and the Development of Black Communities Act, as well as the Population Registration Act, brought some hope. That statement was clear evidence of the far-reaching and irreversible changes set in motion, with a view to dismantling apartheid. Hungary sincerely hoped that the measures announced would create a climate conducive to serious negotiations for a peaceful settlement. Antagonism, isolation and confrontation should give way to encouragement, commitment and co-operation. Thus, the Government of Hungary felt that maintaining and expanding contacts with all the parties, including the South African Government would contribute to furthering the process of democratization. In conclusion, his delegation hoped that the positive changes would be reflected in the Commission's debates and that the resolutions adopted would contribute to the creation of a united, non-racial and democratic State in South Africa.

11. Mr. ELARABY (Observer for Egypt) said that the delegation of Eygpt was approaching the discussion of the meeting's agenda items with some optimism and in the hope that the radical changes observed would result in a new system in which the black majority would enjoy all its civil and political rights. In theory, the legislative changes which President De Klerk had announced at the inaugural session of the South African Parliament on 1 February meant the destruction of the pillars which supported apartheid. Those changes could mark the first steps towards the establishment of a system based on law and justice and should therefore be welcomed.

12. However, one should be wary of being over-optimistic, because the report of the Ad Hoc Working Group of Experts on southern Africa (E/CN.4/1991/10) showed that the measures of reforms adopted in 1990, such as Nelson Mandela's release and the new legislation passed which would serve the interests of the black majority, were encountering several obstacles. Furthermore, the South African Government had not granted the Ad Hoc Working Group of Experts permission to visit South Africa and it had had to content itself with hearing witnesses and with visiting the front-line countries, despite the policy of openness announced by the Pretoria Government. Moreover, the Group's report did not give an entirely positive assessment since it spoke of serious human rights violations: obstruction of justice, continued acts of violence committed or encouraged by the security officials, denial of the right of freedom of expression, non-compliance with ILO guidelines in respect of labour and trade union activities. On top of that, South Africa continued to aid the mercenary forces that threatened the security of the front-line countries, as stated in the report of the Special Rapporteur on the question of the use of mercenaries, Mr. Bernales Ballesteros, Chairman of the current session of the Commission.

13. The policy of openness had therefore been less than successful, and the principle of "one man, one vote" was still an unfulfilled dream. One might well wonder whether the amendments to the legislation to be submitted to Parliament would have the effect of repealing the Group Areas Act, the

Land Act and the Population Registration Act, or whether they were merely window dressing to conceal injustice, repression and exploitation. For example, the laws stipulating equal access to health care remained academic because the whites continued to be given preferential treatment (E/CN.4/1991/10, para. 194). Although the situation in South Africa was changing, continued vigilance was necessary.

14. The international community had succeeded in implementing Namibia's independence plan under its direct control, and that had been a protracted undertaking requiring great tenacity. The young State of Namibia should be provided with assistance and helped to consolidate its independence. In that respect, the specialized agencies and other competent international organizations had a part to play.

15. International efforts to suppress and combat apartheid should be pursued in conjunction with the relevant international agreements and instruments. In that respect, his delegation shared the view that the changes occurring in South Africa were due not only to the work of anti-apartheid movements within the country but also to support from outside. His delegation was also of the opinion that United Nations agencies should re-evaluate the methods being used to eliminate apartheid and that the sanctions against South Africa should not be lifted.

16. Consequently, the international community needed more than ever to maintain its economic boycott of South Africa because it had proved to be an effective weapon. For the same reason, Mr. Khalifa, Special Rapporteur on the adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist régime of South Africa should be enabled to continue his work. The Ad Hoc Working Group of Experts should also continue to receive material and technical assistance. In conclusion, the delegation of Egypt said that the changes observed augured well but that there was still a very long way to go before a society of justice and democracy could be established in South Africa.

17. Mr. ARTEAGA (Observer for Venezuela) said that against the background of the quickening pace of events on the international scene, changes of undeniable importance were taking place in South Africa which had for so long claimed the attention of the international community. The political decisions which had been announced by Mr. De Klerk's Government a few days earlier certainly augured well for the elimination of apartheid in South Africa. It was to be hoped that when those measures were put into effect they would mark the end of years of intransigence and incomprehension. The recognition of the human rights and fundamental freedoms of the black population of South Africa was the outcome of the fierce struggle of the South African people and the international community to eradicate the scourge of apartheid.

18. Although Mr. De Klerk's announcements gave ground for hope, as long as such important statements of intent were not given practical effect, the efforts being deployed under United Nations auspices should not be relaxed. Furthermore, the South African President himself had said that there were still major hurdles to be cleared before a new Constitution could be drafted. As the Ad Hoc Working Group of Experts had said in the conclusions of its report (E/CN.4/1991/10, para. 260) "the overwhelming evidence produced before the Ad Hoc Working Group of Experts shows that, despite the good intentions of

President F.W. De Klerk, injustice, inhumanity and brutality continue to dominate the day-to-day lives of the majority of the people of South Africa". Indeed, the contents of the report gave rise to concern.

19. His delegation felt that progress had been made towards building an atmosphere conducive to negotiation. The joint declaration of the South African Government and the African National Congress to speed up the political process through the release of political prisoners and through changes in the security arrangements had further changed the situation. Venezuela also welcomed the agreement reached between the representatives of the African National Congress and Inkatha on 29 January 1991, which was symbolic of the new political climate that should prevail in post-apartheid South Africa.

20. Regarding the maintenance of trade and diplomatic relations with the racist Pretoria régime, under various guises, Venezuela shared the concern expressed by Mr. Khalifa, the Special Rapporteur, in his report on the adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist régime of South Africa (E/CN.4/Sub.2/1990/13 and Add.1), when he stated that the manner in which the South African Government had reacted to the pressure of the economic sanctions had revealed a number of shortcomings in the measures currently being taken. Venezuela, for its part, reiterated that there were no public Venezuelan investments in South Africa, nor credit guarantees, nor were any permits granted to any private Venezuelan companies to invest in South Africa. Venezuela maintained no diplomatic, consular, economic, financial, military, sporting or other relations with the racist South African régime.

21. Venezuela maintained the position it had always held on apartheid. Considerations of political ethics led it to identify with the cause of the South African people, and it believed that the international community should not relax pressure on the Pretoria Government until apartheid was completely abolished. The recognition of human rights and fundamental freedoms did not allow of conditions or delays.

22. Mr. MUYOVU (Burundi) said that Burundi fully endorsed the provisions of the International Convention on the Suppression and Punishment of the Crime of Apartheid. Apartheid was, in fact, a denial of the universal principle of the equality of all human beings and a threat to international peace and security; it should therefore be completely eliminated and not merely reformed.

23. The institutional structures of apartheid were still intact. Nevertheless the recent statements by the South African President, Federick De Klerk announcing the early repeal of the three main legal bases of apartheid, namely the Group Areas Act, the Land Act and the Population Registration Act were to be welcomed.

24. However, it should not be forgotten that those statements of intent were the direct result of the pressures exercised by the international community and the unremitting struggle of the oppressed black people of South Africa. The international community should therefore guard against lifting the sanctions too soon or discontinuing the other means of pressure adopted at the international level before the apartheid system was completely dismantled and a democratic, non-racial and united State had been established. That

requirement was clearly stated in the declaration of the Assembly of Heads of State and of Government of the Organization of African Unity, meeting on 11 July 1990.

25. Burundi maintained no diplomatic, military, economic or other relations with South Africa and would hold steadfastly to that position until the system of apartheid was completely abolished. In the meanwhile, it strongly condemned any form of collaboration with the South African régime. A movement in support of southern Africa formed in Burundi in 1984 was contributing to the international campaign against apartheid and had been helping to alert public opinion to the crimes of apartheid and the misdeeds of racial discrimination. The movement was doing everything it could to assist the people of southern Africa in their struggle for freedom.

26. Through its laws and statutes and in its administrative and judicial practice, Burundi was showing that it upheld the universally recognized values of equal rights and obligations for all. Since the establishment of the Third Republic, the Government of Burundi had committed itself to a policy which sought by all appropriate means and without delay to eliminate all forms of racial discrimination and to promote understanding among all the people of Burundi. To combat divisive ideologies, which inevitably led to discrimination, the Government had opted for a moral code of national unity rooted in respect for citizens and their equal rights and obligations regardless of sex, origin, colour, religion or opinion. The Penal Code of Burundi provided sanctions against demonstrations of racial or ethnic hatred.

27. At the same time, suitable policies had been pursued in the essential areas of national life. In the political arena, the adoption by referendum on 5 February 1991 of the Charter of Unity was a prelude to the establishment of permanent institutions; that process would be initiated in the current year with the adoption of a new constitution. The principles of transparency guided the management of public affairs: objective criteria which were verifiable and known to all determined employment, and promotion was henceforth based on merit and experience.

28. In addition, action had been taken to instil in young people the ideal of national unity. First of all, equity was ensured in the administration of the educational system. National unity was vital for Burundi. Fair and permanent solutions had not been found for the problems of ethnic and other divisions before the institution of the Third Republic, partly because successive Governments had failed to show the necessary political determination to come to grips with those problems, which, as it were, had become taboo. The fact that the leaders acknowledged their existence and agreed to discuss them openly was already a revolution in itself, which should be encouraged and supported.

29. Ms. ANDREYCHUCK (Canada) said that Canada, in the person of the Prime Minister, Mr. Mulroney, had welcomed President De Klerk's speech on the previous Friday and had hailed it as a strong and courageous statement. President De Klerk had promised the early repeal of the Land Act, the Group Areas Act and the Development of Black Communities Act. Those three pillars of apartheid would be replaced by a non-racial land policy which would balance property rights with the need to make land ownership and financing available. The outrageous white monopoly of 87 per cent of South African land would soon be a thing of the past. The impact of the measures taken should therefore not be underestimated.

30. President De Klerk had also promised the repeal of the Population Registration Act during the current Parliamentary session and its replacement by transitional provisions pending a new constitution. It was to be hoped that the Government would go on to apply thoroughly the principles contained in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which condemned all forms of discrimination based on race.

31. In addition, the President had proposed a number of interim arrangements. Leaders of extra-parliamentary parties might be given a voice in formulating important policy decisions. Communities in the same region would be able to co-operate in the joint provision of municipal services, joint decision-making procedures and the delegation of some or all of their functions to a larger body. The rationalization of education was proposed. Canada looked forward to the clarification of those measures in the weeks ahead and to adequate financial provision for their implementation in next month's budget. Last, but by no means least, President De Klerk had embraced the idea of an all-party conference, put forward in a recent proposal by the African National Congress. The conference would determine the principles to be embodied in a new constitution and the procedures for drafting it. All parties that wished to shape the new South Africa should take part in that exercise. The rules must be agreed on by all. In that area, the experience of Namibia could be relevant. Long before convening the Constituent Assembly, Namibia's political parties had agreed unanimously on the constitutional principles and later, in the heat of the electoral campaign, they had again agreed unanimously on a code of conduct. That was a constructive example which the South African parties might wish to follow.

32. While Canada appreciated President De Klerk's personal commitment and was seeking the earliest possible start of an all-party conference, it was surprised that Mr. De Klerk's statement had overlooked the urgent need for action on political prisoners, exiles and security legislation.

33. The fate of political prisoners was crucial to the negotiating process. Their liberation was spelled out as an explicit pre-condition in the Commonwealth's Nassau Accord of 1985, the American Comprehensive Anti-Apartheid Act of 1986, and the United Nations Declaration on Apartheid and its Destructive Consequences in Southern Africa of 1989. Almost a full year after Nelson Mandela had been freed, fewer than one quarter of all political prisoners had been released. Dozens were languishing on death row and dozens more were being detained without trial. It was to be hoped that the South African Government would live up to its commitments in the Pretoria Minutes and in particular the 30 April deadline. That way lay true reconciliation. Canada, with its Dialogue Fund of $2.3 million, was already playing a leading role in assisting the process of national reconciliation in South Africa.

34. The question of exiles also needed to be settled urgently. Since the historic announcements of a year ago, some 30,000 to 40,000 exiles had been waiting impatiently to return to their native land. The previous September, Canada had contributed to bringing about the General Assembly authority for a UNHCR role in the return of the exiles. In June, Canada had pledged some $5.8 million for the repatriation and settlement of exiles and prisoners regardless of political affiliation. So far, only a trickle of exiles had returned and, it should be emphasized, in spite of the obstacles. Again, she

called upon the South African Government to heed the calls of the National Co-ordinating Committee for the Return of Exiles and of others for UNHCR assistance in the exercise; its experience and ability to inspire donor confidence enabled UNHCR to act faster and more effectively than any other alternative. In Namibia, UNHCR had begun operations only one week after a comprehensive amnesty had been declared and had repatriated over 40,000 exiles within three months. If the South African Government would only grasp the nettle, there was still time to bring back a substantial number of exiles by 30 April.

35. The third area of concern was security legislation. In the Groote Schuur and Pretoria Minutes, the Government had undertaken to review the security legislation, to repeal its politically offensive provisions and to introduce amending legislation during the current session of Parliament. It was deeply disturbing that President De Klerk's speech gave no hint of implementing the commitments which he had given six and nine months before. Mr. De Klerk had so far been a man of his word, and it could be expected that the legislative amendments contemplated would, indeed, be tabled during the current session of Parliament. The Internal Security Act should be singled out for particular attention as it provided for indefinite detention without trial and the banning of public gatherings. Much more than it had to date, the South African Government would have to recognize the legitimacy of peaceful mass demonstrations as part of the normal democratic process.

36. If President De Klerk's promises became reality and if the urgent action which Canada was calling for was taken, the way would be open for a future of considerable promise in South Africa. It was not too soon for the international community to think of ways in which to assist a new and democratic South Africa.

37. The Commission could help by ensuring that its resolutions were as realistic as possible and that they took account of positive developments as well as remaining shortcomings. It had almost negotiated a consensus text the year before and she hoped that at the present session the efforts to that end would be successful. Consensus had given strength to the Commission's resolutions and to the other measures adopted against apartheid. As apartheid faded, it was to be hoped that a fresh consensus would be reached in building the new South Africa. The international community had a duty to assist in that process; it could help the dream of free and democratic South Africa to become a reality and the "Beloved Country" to assume its rightful place in the community of nations.

38. Ms. BLOCH (Minority Rights Group) said that, somewhat unusually, her organization wished to focus on the language and educational problems of minorities. Governments frequently discriminated against individuals or communities because of the languages they spoke. Those languages were usually minority languages. The right to speak one's mother tongue, which seemed to be taken for granted by most people, was often restricted or denied.

39. Between 4,000 and 5,000 languages were spoken in the world, some by hundreds of millions of speakers, others by only a few hundred people. Less than 5 per cent of the world's languages were officially recognized, while the remaining 95 had no official status. In practice, most of the world's States or territories were bilingual or multilingual but only about 40 were officially so. All the others had only one official language. Minorities

were therefore forced to become bilingual merely in order to communicate with the majority group, whereas their languages were given little recognition or in certain cases not tolerated. Such inequality was a form of racism.

40. That was especially true in education. Many children belonging to linguistic minorities were forced to become literate in a language other than their mother tongue, a practice which perhaps accounted for their educational failure. Also, some children might not master either the language of the linguistic majority or their mother tongue. UNESCO had long urged States to allow the children of linguistic minorities to receive primary education in their language. The year 1990 had been celebrated as International Literacy Year. The Minority Rights Group urged the international community to continue to devote adequate resources to literacy, especially literacy in the mother tongue. History abounded in examples of the disastrous results of the imposition of a foreign language. There was, for instance, the unfortunate practice of compelling the children of colonized indigenous populations to learn the languages of the colonizers rather than their own languages.

41. In some countries, minorities were still not allowed free use of their own languages. In Turkey, the Kurds, who represented about 20 per cent of the population, could not publish Kurdish literature or broadcast in Kurdish and all education was in Turkish. The Minority Rights Group welcomed the announcement by the Turkish Government of its intention to repeal existing laws which banned the speaking of Kurdish. In Bulgaria between 1984 and late 1989, the ethnic Turkish minority had had assimilation forced upon them by the Government, which involved, inter alia, relinquishing their names and language. The Minority Rights Group welcomed the recent changes made to reverse that process. In the Soviet Socialist Republic of Azerbaidjan, the population of Upper Karabakh, the majority of which was Armenian, was denied the right to education in Armenian. Armenian-language schools were attached to the Republic's Ministry of Education, where few of the staff spoke Armenian. In North Africa, the Berber-speaking population had for a long time been demanding recognition for the Berber language and culture along with Arabic. In Tibet, in 1980, a survey showed that at that time at least, only 44 per cent of the schoolchildren and 30 per cent of the teachers were Tibetan, that in some areas Tibetan was not taught at all and that in others it was taught only for the first three years of primary school and that there were almost no books available in Tibetan.

42. In South Africa, schoolchildren had been shot and tortured for demanding education in the language of their choice, in that case in English rather than Afrikaans or Bantu languages. In East Timor, which continued to be illegally occupied by Indonesia, the indigenous East Timorese were denied the right to education in their own languages or the former colonial language, Portuguese, and almost all education was in Bahasa Indonesian.

43. The Minority Rights Group drew the attention of the members of the Commission to article 3 of the draft declaration on the rights of persons belonging to national, ethnic, religious or linguistic minorities and it recommended that UNESCO should look at the problems of education faced by minorities, particularly in cases where little systematic research had been done.

The meeting rose at 11.35 a.m.